



2006 Judicial Conference Begins

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Circuit Judge Consuelo Callahan (far left) and attorney Merrilee MacLean join U.S. Supreme Court Associate Justice Anthony M. Kennedy and Ninth Circuit Chief Judge Mary M. Schroeder on the opening day of the Ninth Circuit Judicial Conference.

The 2006 Ninth Circuit Judicial Conference opened Monday at the Hyatt Regency Hotel in Huntington Beach, Calif. with Chief Judge Mary M. Schroeder focusing on efforts to split the circuit in her report on the State of the Circuit.



"The view of the overwhelming majority of our circuit judges, district and bankruptcy judges is that the circuit should not be divided," Judge Schroeder said during the conference's opening session.

"If the United States Senate Judiciary Committee is seriously considering the subject, we deserve a full, fair and adequately noticed opportunity to explain why so many of us think it is a bad idea, to look at its real costs, the imbalance of caseload it would produce, as well as its implications for law enforcement at the border," she said.

The annual conference brings together approximately 800 judges, court employees, representatives of government

Chief Judge Mary M. Schroeder gives her report on the State of the Circuit. agencies, and private attorneys. It was organized by the Conference Executive Committee chaired by Magistrate Judge Sandra M. Snyder of Fresno. Chief District Judge Robert S. Lasnik of Seattle is this year's program chair. General

sessions, based on the conference theme "Seismic Shifts in the Law and in Our Lives," are focusing on sentencing, juries, natural disasters, court security and disaster planning, and judicial wellness.

This year's conference is particularly noteworthy due to the attendance of three U.S. Supreme Court justices. Chief Justice John G. Roberts Jr. is the featured speaker of the session "Conversation with the Chief Justice" on Thursday, the final day of the conference. In addition, Associate Justice Anthony M. Kennedy on Monday spoke to attendees as the new Ninth Circuit Justice. Associate Justice Stephen Breyer, brother of District Judge Charles Breyer of San Francisco, is also attending the event.

In her speech, Judge Schroeder pointed out that much of the movement to divide the circuit comes from outside forces. The proposal at issue would create a new Twelfth Circuit and leave California, Hawaii, Guam and the Northern Mariana Islands in the Ninth Circuit.

"Of the total contingent of more than 200 active and senior Article III judges in the circuit, only 24 signed on to a recent letter to Congress advocating the split," she said.

Judge Schroeder noted that the state bars of Alaska, Washington, Montana and Arizona are among "countless" local and federal bar associations that oppose the split. In addition, she recalled that the Judicial Conference of the United States was against a 2005 congressional bid to link new judgeships with a division proposal.

"Although the main argument by proponents of division remains the contention that the circuit is 'too big,' the geographic size of the circuit has not changed since Hawaii obtained statehood, and the number of circuit judgeships has not changed since 1984," Judge Schroeder said. According to her, the circuit Court of Appeals has never had the opportunity to operate with all of its 28 judgeships filled. It has taken nearly 10 years to come close: Two positions remain open, following the recent confirmations of Circuit Judges Sandra S. Ikuta and Milan Smith.

"Does anyone seriously think that new judges for California -- left in a circuit alone with Hawaii and the Pacific Ocean -- would appear instantaneously?" Judge Schroeder said. Division could also mean bankruptcy judges would lose effective use of the Ninth Circuit Bankruptcy Appellate Panel.

In addition, "It would take years to assemble a staff remotely as experienced as the one in the Ninth, and there seems to be some disagreement as to where the staff would live, since that (new) circuit, cutting a swath from Alaska to Arizona, would have no geographic hub," she said. "Anyone who thinks that cases will move faster in divided circuits needs to think again."

Judge Schroeder has invited Sen. Arlen Specter and other members of the Senate Judiciary Committee to hold hearings in the circuit and "get to know us and our geography a little better," she said. Sen. Specter is chairman of that committee.

The conference opening session also included an awards ceremony, held prior to Judge Schroeder's speech. Awards presented were:

- The John P. Frank Award, to attorney Shirley Hufstедler, the first U.S. secretary of education and a former judge of the U.S. Court of Appeals for the Ninth Circuit. The award recognizes an outstanding lawyer practicing in Ninth Circuit courts.

Attorney Terry W. Bird, chair of the Advisory Board for the Ninth Circuit, presented the award to the Hon. Dennis M. Perluss of Division Seven for the California State Court of Appeal, who accepted the award on her behalf.

- The Ninth Circuit Professionalism Award and American Inns of Court Award, to the Hon. Gerry L. Alexander, chief justice of the Washington Supreme Court.

The Hon. Ruth V. McGregor, chief justice of the Arizona Supreme Court and trustee of the American Inns of

Court, presented the award to Chief Justice Alexander.

- The Robert F. Peckham Award, to David E. Lombardi Jr., chief circuit mediator for the Ninth Circuit Court of Appeals. The award recognizes judicial employees who have significantly advanced the delivery of effective court-based programs on alternative dispute resolution within the circuit.

- The Ninth Circuit ADR Education Award, to the Straus Institute for Dispute Resolution at Pepperdine University School of Law. The award is given to a law school that has significantly advanced ADR scholarship and research.

Senior Circuit Judge Dorothy Nelson, chair of the circuit Alternative Dispute Resolution Committee, presented the ADR awards to Mr. Lombardi, and to professors Peter Robinson and Thomas Stipanowich, academic co-directors of the Straus Institute.

- The Director's Award for Excellence in Court Operation, to W. Samuel Hamrick Jr., clerk of court for the Southern District of California. The award from the Administrative Office of the U. S. Courts recognizes outstanding professionalism and leadership in court operations.

AO Director James C. Duff presented the award to Mr. Hamrick.



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